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LETTER DATED 16 FEBRUARY 1994 FROM THE PERMANENT REPRESENTATIVE OF CROATIA TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

I should like to draw the attention of Your Excellency, as the depositary of international conventions, to the letter dated 27 April 1992 addressed to the President of the Security Council and the letter of 6 May 1992 addressed to Your Excellency by the Chargé d'affaires a.i. of the Permanent Mission of Yugoslavia to the United Nations (S/23877 and A/46/915). The Republic of Croatia became a Member of the United Nations on 22 May 1992, i.e., after the circulation of these documents. Therefore, the Republic of Croatia at that time did not make any official statement concerning the aforementioned documents.

These documents contain the declaration adopted on 27 April 1992 at the joint session of the National Assembly of the Republic of Serbia and the Assembly of the Republic of Montenegro on the establishment of the Federal Republic of Yugoslavia as well as the statement of the Federal Republic of Yugoslavia relating to this declaration.

The first sentence of paragraph 1 of the above-mentioned declaration proclaims that "the Federal Republic of Yugoslavia, continuing the state, international legal and political personality of the Socialist Federal Republic of Yugoslavia, shall strictly abide by all the commitments that the SFR of Yugoslavia assumed internationally". The letter addressed to you contained the following statement: "Strictly respecting the continuity of the international personality of Yugoslavia, the Federal Republic of Yugoslavia shall continue to fulfil all the rights conferred to, and obligations assumed by, the Socialist Federal Republic of Yugoslavia in international relations, including its membership in all international organizations and participation in international treaties ratified or acceded to by Yugoslavia".

The Republic of Croatia strongly objects to the pretention of the Federal Republic of Yugoslavia (Serbia and Montenegro) to continue the state, international, legal and political personality of the former Socialist Federal Republic of Yugoslavia.

In this connection, the Republic of Croatia wants to emphasize that the relevant resolutions of the Security Council and the General Assembly concerning this issue did not accept this claim of the Federal Republic of Yugoslavia

(Serbia and Montenegro). The Security Council, in its resolution 757 (1992), particularly notes that "the claim by the Federal Republic of Yugoslavia (Serbia and Montenegro) to continue automatically the membership of the former Socialist Federal Republic of Yugoslavia in the United Nations has not been generally accepted". This position was reaffirmed in Security Council resolution 777 (1992), which further notes "that the State formerly known as the Socialist Federal Republic of Yugoslavia has ceased to exist" and "that the Federal Republic of Yugoslavia (Serbia and Montenegro) cannot continue automatically the membership of the former Socialist Federal Republic of Yugoslavia in the United Nations". On 22 September 1992, the General Assembly, in its resolution 47/1, agreed with the Security Council recommendation.

I should also like to draw your attention to the opinions of the Arbitration Commission of the United Nations/European Community International Conference on the Former Yugoslavia, particularly opinions Nos. 8, 9 and 10 of 4 July 1992 (see S/1994/189, annex). The Commission has concluded that "the process of dissolution of the Socialist Federal Republic of Yugoslavia ... is now complete and the Socialist Federal Republic of Yugoslavia no longer exists" (opinion No. 8), and that "the successor States to the Socialist Federal Republic of Yugoslavia must together settle all aspects of the succession by agreement ... and that none of the successor States may thereupon claim for itself alone the membership rights previously enjoyed by the former Socialist Federal Republic of Yugoslavia" (opinion No. 9). Furthermore, according to opinion No. 10 of the Commission, since there was no agreement among the successor States of the Socialist Federal Republic of Yugoslavia as to the succession of the rights and obligations of the Socialist Federal Republic of Yugoslavia, general rules of international law which deal with succession of States with respect to treaties, property, archives and debts should be applied. In connection with this issue, the Commission considers that "the Federal Republic of Yugoslavia (Serbia and Montenegro) is a new State which cannot be considered the sole successor to the Socialist Federal Republic of Yugoslavia".

The Federal Republic of Yugoslavia (Serbia and Montenegro) has, however, not acted according to rules of international law and the aforementioned resolutions of the Security Council and the General Assembly. Moreover, it has ignored them and tried to participate in international forums as a State party to treaties and/or as a member of international organizations with the intention to create a precedent by which it would later seek to prove that it is the sole legitimate successor to the former Socialist Federal Republic of Yugoslavia.

The Federal Republic of Yugoslavia (regardless of its name) is one of the successor States to the former Socialist Federal Republic of Yugoslavia and has equal rights and obligations, no more or less than any other legal successors (Bosnia and Herzegovina, Croatia, Macedonia and Slovenia) to the former Socialist Federal Republic of Yugoslavia. In its opinion No. 11 of 16 July 1992, the Arbitration Commission established the dates of succession of States for five successor States to the former Socialist Federal Republic of Yugoslavia. In regard to the Federal Republic of Yugoslavia (Serbia and Montenegro), it came to the conclusion "that 27 April 1992 must be considered the date of State succession in respect of the Federal Republic of Yugoslavia because that was the date on which Montenegro and Serbia adopted the Constitution of the new entity and because the relevant international agencies

then begin to refer to 'the former Socialist Federal Republic of Yugoslavia', affirming that the process of dissolution of the Socialist Federal Republic of Yugoslavia has been completed".

In accordance with this, if the Federal Republic of Yugoslavia (Serbia and Montenegro) expressed its intention to be considered, in respect of its territory, a party, by virtue of succession to the Socialist Federal Republic of Yugoslavia, to treaties of the predecessor State, with effect from 27 April 1992, the date on which the Federal Republic of Yugoslavia (Serbia and Montenegro), as a new State, assumed responsibility for its international relations, the Republic of Croatia would fully respect that notification of succession.

I would kindly request your assistance in circulating this letter as a document of the Security Council.

(Signed) Mario NOBILO
Permanent Representative